UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/C.12/2001/SR.21
14 May 2001

Original: ENGLISH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 21st MEETING

Held at the Palais Wilson, Geneva,
on Monday, 7 May 2001, at 10 a.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: INTERNATIONAL CONSULTATION ON "ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE DEVELOPMENT ACTIVITIES OF INTERNATIONAL INSTITUTIONS" ORGANIZED IN COOPERATION WITH THE HIGH COUNCIL FOR INTERNATIONAL COOPERATION (FRANCE)

Opening remarks

International institutions and the International Covenant on Economic, Social and Cultural Rights

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.01-41872 (E)

The meeting was called to order at 10 a.m.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS: INTERNATIONAL CONSULTATION ON "ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE DEVELOPMENT ACTIVITIES OF INTERNATIONAL INSTITUTIONS" ORGANIZED IN COOPERATION WITH THE HIGH COUNCIL FOR INTERNATIONAL COOPERATION (FRANCE) (agenda item 5) (E/C.12/2001/3, 4, 5 and Corr.1, 6-9)

Opening remarks

1. The CHAIRPERSON, welcoming participants to the Committee's Day of General Discussion, said it was an auspicious occasion because it coincided with the twenty-fifth anniversary of the International Covenant on Economic, Social and Cultural Rights. In addition, the Committee had just adopted a statement on poverty and the Covenant, which was available to participants in an unedited version (Poverty and the International Covenant on Economic, Social and Cultural Rights, adopted on 4 May 2001).

2. She invited the Deputy High Commissioner for Human Rights to open the meeting.

3. Mr. RAMCHARAN (United Nations Deputy High Commissioner for Human Rights), welcoming participants on behalf of the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, said that the High Commissioner had done a great deal to highlight the importance of human rights in development; of economic, social and cultural rights; and of implementation strategies that addressed all rights together. He thanked France's High Council for International Cooperation (HCCI) for making the meeting possible and welcomed the Permanent Representative of France and the President of HCCI.

4. In welcoming the Director-General of the International Labour Organization (ILO), Mr. Juan Somavía, he said he recalled hearing Mr. Somavía, 10 years previously, arguing that security in Latin America should be seen in human rights terms. In the same way, a concept of international and national security that centred on human beings and basic human rights - economic, social, cultural, civil and political - was essential to the current discussion.

5. He welcomed the Secretary-General of the United Nations Conference on Trade and Development (UNCTAD), Mr. Rubens Ricupero, and said that UNCTAD had always fought for the principles of equality and non-discrimination and for better rules in trading, all of them very relevant to the human rights movement and poverty alleviation.

6. Lastly, he congratulated the Committee for organizing the event, which should help to improve cooperation between the Committee and the specialized agencies.

7. The specialized agencies had played a historic role in shaping the Covenant. At the time when it was being drafted, they had influenced the content of particular rights and helped develop an implementation scheme. The idea that the Covenant should make a difference to

people's daily lives and improve their life chances was already there. The question now was, what could the agencies do to advance the implementation of the Covenant? It was time to be more specific.

8. First, the goals of the Covenant must become the goals of development policy at the international and national levels. That was the essence of a rights-based approach. Secondly, advocacy of economic, social and cultural rights was not enough: it was important to see how that translated into action at the national level. What arrangements did the State make for implementing those rights? Was there a mechanism within the Ministry of Agriculture, for example, to monitor the right to food? To what extent did the State treat the right to work as a human right?

9. Thirdly, common country assessments (CCAs) and the United Nations Development Assistance Framework (UNDAF) must consciously and actively foster and monitor the national implementation of economic, social and cultural rights. It was not enough to help draft a UNDAF: the question was how far the country was implementing a rights-based approach?

10. Fourthly, core elements of key rights must be singled out for advocacy and strategic action. An example was United States Senator McGovern's recent call for a free lunch for every child on the planet. Fifthly, it was important for the United Nations to develop ways of addressing consistent patterns of gross violations of economic, social and cultural rights in the same way it dealt with patterns of gross violations of civil and political rights. Sixthly, more use should be made of judicial arbitration of economic, social and cultural rights, as was beginning to happen in South Africa, for example, where courts were developing case law on the right to health and housing.

11. Seventhly, the principle of equality and non-discrimination should be a bedrock principle for all those efforts. It was central to the whole international debate. Lastly, serious consideration should be given to establishing partnerships between the agencies and the Office of the High Commissioner for Human Rights (OHCHR) in order to develop the content of core economic, social and cultural rights and help shape strategies for their implementation. Historically, discussion of economic, social and cultural rights had been of a very general nature, but the Committee had done much to concretize the implementation of those rights through its general comments and its comments on States parties' reports. Partnership between the Committee and other agencies was now crucial.

12. Mr. SOMAVIA (Director-General, International Labour Organization) said that, in the context of the international agencies, there were three problems with regard to the implementation of economic, social and cultural rights. The first was the danger of uncontrolled globalization or globalization governed only by economic rules; the second was the problem of "schizophrenic" multilateral organizations, some of which might tell a country to do one thing while others told it to do something different, with the risk that some policy recommendations could undermine economic, social and cultural rights; and the third was the increasing inability of multilateral organizations to connect with ordinary people and see problems through their eyes.

13. For ILO it was self-evident that globalization would be a fragile process if it was not underpinned by standards of economic, social and cultural rights. For an organization whose chief task was to produce conventions relating to the world of work, the idea that the international system needed social standards was fundamental, and ILO had recently been trying to reinforce that aspect of globalization, in three ways. First, after the 1995 World Summit for Social Development, it had been clear that the only way forward would be through collective commitment to certain basic labour rights, but ILO had decided to go beyond ratification, and in 1998 it had adopted the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, according to which:

> "... all Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization, to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those conventions, namely:
>
> (a) freedom of association and the effective recognition of the right to collective bargaining;
>
> (b) the elimination of all forms of forced or compulsory labour;
>
> (c) the effective abolition of child labour; and
>
> (d) the elimination of discrimination in respect of employment and occupation."

14. ILO had also been developing what it called its "Decent work agenda" in recent years. There could be no right to work if there was no work. The right had a real place, but in order to exist it must have a real basis. A family without work was a family deprived not only of the right to work but also of many other rights. The reason Governments always promised jobs at election time was that people structured their lives around work: if they could provide for their children and their retirement they had the feeling that they had a real opportunity to exercise other rights. The creation of work was therefore fundamental to the enjoyment of the right to work. The ILO was marrying its historic agenda, which focused on the right to work and social protection, and the agenda of development and growth, which centred around job creation. The idea of decent work was ILO's contribution to the implementation of the right to work.

15. Even in a context of economic deregulation, there was a place for social regulations based on ILO conventions. One example was the Worst Forms of Child Labour Convention, which in only two years had been ratified by 70 States. Three countries had now taken the next step and committed themselves to plans for effectively eliminating the worst forms of child labour. The adoption of the instrument had thus created a political dynamic.

16. The second main issue was the role of the multilateral system in the implementation of international instruments such as the Covenant and the ILO Conventions. For example, everyone, everywhere had the right to freedom of association, but some within the international system believed that enjoyment of that right was only justified if it contributed to productivity.

As it happened, ILO believed it did contribute to productivity: better industrial relations meant greater stability and greater ability to deal with problems, which in the long run led to increased productivity. In order to implement that right, it was essential to agree on such points. All international organizations should take the ILO Declaration as a basis for policy proposals.

17. One difficulty in that regard was that each organization looked at the new phenomenon of the global economy from its own perspective. It was impossible to apprehend all the dimensions of such a broad phenomenon from such a limited standpoint. In that respect, the multilateral system was simply not doing its job. It needed to find ways of working together to promote policies that would respond to the problem at the level of individuals and families. It needed to shift from unilateral to integrated action. ILO's contribution to the integration of work and social dialogue had been to establish a working group on the social dimension of globalization, which would examine the relationship between the world of work and the global economy.

18. Turning to the third issue, connecting with people, he said it was a matter of looking at today's problems through ordinary people's eyes. How was it possible for example, to explain ILO and its role to someone who was unfamiliar with the complexities of ILO conventions and their ratification? What people saw as central was their work and their working conditions, and so a comprehensible way of describing ILO was as an institution that promoted decent work.

19. International institutions were not in the habit of asking themselves how ordinary people looked at such issues or what terms to use in formulating policy. In taking decisions on a given problem, it was important to start from how people saw it, which meant listening to what people were saying about it. Without the ability to connect with people, there was a danger that international organizations with vast mandates and resources would discuss issues only among themselves and not with those their policies would affect. If the multilateral system did not reconnect with people, it would be very difficult for it to respond to rapid change and, indeed, to people's reactions to such change. It had a great responsibility not only to make reality but also to make that reality connect with people's lives and perceptions.

20. Mr. RICUPERO (United Nations Conference on Trade and Development) said that during the past decade, in a remarkable shift due in large part to the efforts of the High Commissioner for Human Rights, Mrs. Robinson, economic, social and cultural rights and the right to development had been moved to the centre of the international stage. The economy, trade and finance were no longer regarded as separate from human values and the universally recognized human rights embodied in the Covenant. However, there were still practical difficulties in reconciling different sets of rights.

21. The perennial question of the extent to which the international organizations were bound by the Covenant was in his view not a real problem. Too often, commentators confused the secretariats of those organizations with the actual members: it was the member States which made the decisions and gave instructions to the secretariats, and it was the same States which were parties to the Covenant.

22. In analysing the effects of globalization, it was important to remember that poverty, disease and inequality had always existed. The real question was to what extent globalization

had aggravated those problems or created new ones. He saw globalization as the main cause of growing job insecurity in a world where footloose companies thought nothing of switching production to another country. Other problems created by globalization were the volatility of financial markets, the higher incidence of economic crises affecting the developing countries, and various trade-related problems, such as where to strike the balance in the field of intellectual property rights. If the international organizations were to be really effective in reconciling such considerations with economic, social and cultural rights, a balanced approach was vital.

23. The most dramatic example of the way in which human rights norms were beginning to have a practical effect, and a reminder that not every conflict was clear-cut, was the recent case concerning intellectual property rights and the fight against AIDS, where the rights of transnational pharmaceutical companies under the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement) were ranged against the right to health and medical treatment. The key to solving that problem had been the mobilization of civil society, but not all problems inspired the same level of public involvement. For example, progress on debt relief was relatively slow.

24. Fortunately, the international community had an excellent reference point by which to measure progress in resolving international problems, in the form of the United Nations Millennium Declaration, which gave prominence to the fight against poverty and set precise goals. Governments would have a chance to prove their willingness to translate their principles into action at the forthcoming Third United Nations Conference on the Least Developed Countries. The Committee would have an opportunity after the Conference to assess the concrete measures taken by Governments to implement the Declaration.

25. The CHAIRPERSON said that the Committee had in fact just adopted a statement on "Poverty and the International Covenant on Economic, Social and Cultural Rights", which it intended to forward to the Conference.

26. Mr. BIANCO (High Council for International Cooperation) said that the world had changed a lot since 1966, when the two International Covenants had been adopted. Globalization had been of tremendous economic benefit to some two billion people but inequalities had been dramatically exacerbated. There was a need for new rules that protected the rights of the most vulnerable and those least likely to benefit from globalization. As human rights law became more complex, it was important not to lose sight of the basic objectives of the Universal Declaration of Human Rights and the two International Covenants.

27. He hailed the latest victory of the people of South Africa, achieved with the help of international civil society, in the struggle against the terrible AIDS pandemic threatening their right to health and to life itself. The victory also illustrated how important companies and civil society had become on the international scene.

28. In France, the High Council for International Cooperation was representative of civil society as a whole and had entered into a frank and productive dialogue with the Government on their respective roles and common goals. Similar organizations were springing up in other European countries too, in a development that boded well for the future. Perhaps a "global

compact of international organizations" could be set up along the lines of the Global Compact of the Secretary-General of the United Nations, to put human rights at the heart of the work of those organizations.

29. The international organizations needed to explore new avenues and share their experiences and analyses to ensure that they acted consistently. The only way to restore the public's confidence in the legitimate forms of global governance aimed at putting people first was through discussion and a reaffirmation of the basic values that they shared.

30. Mr. SADI said the Committee had found from experience that States often needed to be reminded of their treaty obligations, especially when they were negotiating with international organizations like the World Bank or the International Monetary Fund (IMF). In such cases, however, States were all too often in no position to insist on those obligations. It would be better if the international organizations themselves formally incorporated the Covenant into their constitutions or statements of principle: in that way, the key points referred to by the speakers - partnership, an integrated approach, a global compact and the reconciliation of different sets of rights - would all be taken into account.

31. Mr. SOMAVIA (Director-General, International Labour Organization) said that his experience as a civil-society activist, Government representative and head of an agency had shown him there were limits to cooperation between the secretariats of international organizations. They did cooperate, including at the highest level, but only on specific projects. Responsibility for the kind of action Mr. Sadi was talking about lay with Governments, particularly the Governments of the developed countries which wielded enormous influence through the organizations' budgets. It was, after all, the same Governments which took decisions in the IMF and in ILO and it was their responsibility to ensure that those decisions were consistent. However, it was a fact of life that finance ministers were more powerful than labour ministers. All those in government or civil society who believed in the need for an integrated multilateral system must mobilize in the way women's organizations or environmental activists had done. While there was much that could be done from within the multilateral system, decisions on the core values to be pursued within that system had to be taken by Governments.

32. Mr. BIANCO (High Council for International Cooperation) said that it was not just a question of incorporating the principles of the Covenant into the texts and practices of the international organizations, but of making them effective in practice. He therefore recommended a practical approach that focused on the key points and on what was feasible, much as ILO had done in its approach to child labour. With regard to Mr. Somavia's comments on the power of finance ministers, he drew attention to a proposal made by the French finance minister at a recent meeting of the IMF which would require that expenditure on health and education be ring-fenced in structural adjustment programmes.

33. Mr. RICUPERO (United Nations Conference on Trade and Development) said that the difficulty lay not in the absence of principles but rather in translating them into action when there was a potential conflict between countries. The inevitable conflicts over priorities or goals could only be solved by making compromises. In the case of trade, the General Agreement on Tariffs and Trade (GATT) contained some high-minded principles but conflicts arose at the practical

level. For example, there was an argument that intellectual property rights must be respected in order to encourage research, but another argument that their strict application meant that the poor were denied access to the results of research. In that case, the trade-off was between the efficiency gains resulting from competition and a more just and equitable system. The only way to solve such problems was through collective action by member States. In the World Trade Organization (WTO) that meant that only a strong consensus, for instance on waivers under the TRIPS Agreement, could ensure that human values prevailed.

34. UNCTAD had been arguing for many years that the poorest countries would not be able to sustain their current levels of debt. The World Bank and the IMF had recently come round to that point of view, so it could be expected that their approach to debt would be more realistic in the future. Nevertheless, the President of the World Bank had been right to point out that to cancel the debts of the 60 poorest countries would wipe out the Bank's total capital. Moreover, it was not for the secretariat of the Bank but for Governments to take such decisions: the debt could only be cancelled if Governments made more funds available.

35. The conflicts between desirable goals, such as the implementation of human rights, and practical realities could be solved if the political will was there: that will could be generated by mobilizing civil society, and the results would go far beyond those that might be achieved by the formal incorporation of principles in international organizations.

36. The CHAIRPERSON said that it had been very heartening to listen to the discussion. Many of the comments made relating to the political responsibility of developed countries and the adoption of practical measures such as the recent ILO Convention No. 182: Worst Forms of Child Labour were directly relevant to the Committee's work in monitoring States parties' compliance with the Covenant. Similarly, the difficulties mentioned by Mr. Ricupero in applying the principles of the Covenant were often discussed by the Committee. More and more, the Committee was considering initiatives which lay outside the Covenant but which had a major impact on the enjoyment of economic, social and cultural rights and especially on States' ability to comply with their Covenant obligations. The Committee tried to understand how the Heavily Indebted Poor Country Initiative (HIPC), poverty reduction strategy papers (PRSPs) and the Dakar Framework for Action could be seen to help States parties fulfil those obligations. The Committee was particularly interested in what the member States of international organizations were doing to ensure that all citizens enjoyed their rights to the full.

37. Mr. RAMCHARAN (United Nations Deputy High Commissioner for Human Rights), thanking all those present, said that the members of civil society attending the meeting had made a great intellectual contribution through their mobilization to give impetus to the content of economic, social and cultural rights. Human rights had always played a revolutionary role in the advancement of societies and all the great human rights declarations, including the Universal Declaration of Human Rights, exhibited a revolutionary dimension.

38. Referring to the remarks made by Mr. Sadi, he said that sometimes the culture of understanding of rights could be advanced through a process of consultation, as evidenced by the presence of representatives of major international institutions and civil society at the current meeting, which helped to enrich that understanding. The challenges presented by the

implementation of the Charter of the United Nations and the Universal Declaration of Human Rights were the same as those of the issues under discussion; in other words, to communicate the power of the vision embodied in the instruments in question, leading to the mobilization of the constituencies in favour of that vision.

39. At the same time, it was necessary to defend the integrity of international instruments and for the Committee to be able to show that it was faithful to the general scheme and content of the Covenant. In pursuance of article 18 of the Covenant, it was the role of the Economic and Social Council to bring together the specialized agencies of the United Nations. In accordance with articles 22 and 23 of the Covenant, it was important to ascertain how the Economic and Social Council's role could be enhanced in the sphere of economic, social and cultural rights.

40. Finally, quoting article 28 of the Universal Declaration of Human Rights, he said that everyone was entitled to a social and international order in which the rights and freedoms set forth in the Declaration could be fully realized. When the Covenant had been drawn up in 1966, it had been stated that if the United Nations could be said to have one overriding ideology, it must be that of human rights. Those ideas were most clearly embodied by the participants in the meeting.

The meeting was suspended at 11.30 a.m. and resumed at 11.45 a.m.

International institutions and the International Covenant on Economic, Social and Cultural Rights

41. Mr. HUNT said that in April 2001 the Commission on Human Rights had adopted its omnibus resolution on economic, social and cultural rights. The resolution called on all States parties to the Covenant to "ensure that the Covenant is taken into account in all of their relevant national and international policy-making processes". It further encouraged the Committee to enhance "its cooperation with United Nations specialized agencies, programmes and other bodies working on issues that bear upon the Covenant". Thirdly, the resolution encouraged "all United Nations specialized agencies and programmes ... and other United Nations bodies ... whose activities bear upon economic, social and cultural rights to enhance their cooperation and increase coordination with the Committee ... in a manner that respects their distinctive mandates and promotes their policies, programmes and projects". Those three aspects of the resolution bore closely upon the work of the Committee and the current deliberations.

42. In that context, the Committee had been anxious to develop closer links with the World Bank and the IMF. The Chairperson had written to the President of the World Bank and Managing Director of the IMF and had noted with interest the evolution of the HIPC initiative and, in particular, the key role of PRSPs. She had urged all those concerned with the formulation and implementation of PRSPs, including the World Bank and IMF, to ensure that adequate attention was devoted to the human rights dimensions of poverty. She had suggested that those issues might be discussed in a spirit of cooperation and mutual respect. The Committee had received a positive response to the Chairperson's letters and, in that regard, the current meeting was part of the intensified dialogue which had been encouraged between the institutions.

43. All three bodies were, he felt, exhibiting a new maturity. In its Statement on Poverty, the Committee explicitly acknowledged that poverty raised complex multisectoral issues that were not amenable to simple solutions. While insisting that human rights had a powerful and positive contribution to make in the struggle against poverty, the Committee acknowledged that they were not a panacea. Similarly, Mr. Sefir-Younis had frequently acknowledged in public that the World Bank had erred in some respects in relation to economic, social and cultural rights. It was important in the future to break new ground and to discuss practical arrangements whereby the three institutions could work towards their common goal of eradicating poverty.

44. For the purposes of the discussion, he wished to table three specific proposals for consideration. In that connection, the Committee's Statement on Poverty was a response to a particular problem. Commentators had frequently urged the integration of human rights into anti-poverty strategies. It had not, however, always been clear what precisely the integration of human rights would contribute to anti-poverty policies. The Statement on Poverty reaffirmed what the drafters of the Universal Declaration of Human Rights had known in 1948, namely that poverty was a human rights issue. Secondly, the statement was conceptual not operational, and was designed to show in abstract terms the "value added" contribution of human rights to the poverty discourse. Once that firm conceptual foundation had been established, operational anti-poverty strategies could be constructed on it. Thirdly, the core of the Statement was that international human rights provided a framework of legal norms or rules voluntarily entered into by States parties and which brought with them legal obligations or duties. Those legal obligations demanded that all duty-holders were held to account for their conduct in relation to international human rights norms. Without accessible, transparent and effective mechanisms of accountability, the human rights norms and obligations were mere window-dressing. Given that a framework had been put in place, it was necessary to work out how to integrate international human rights into anti-poverty strategies. What would a human rights-based anti-poverty strategy look like?

45. So much for the content of his three proposals, which focused on States which had ratified the Covenant and which were also working on PRSPs. The first proposal was that the Office of the High Commissioner for Human Rights (OHCHR), in conjunction with the Committee, should urgently organize a small workshop to identify in very precise and practical terms how to integrate economic, social and cultural rights into PRSPs. A paper prepared on that principle would invoke specific human rights provisions such as articles 13 and 14 of the Covenant and their accompanying General Comments Nos. 11 and 13 on the right to education. It would give particular attention to specific vulnerable groups such as indigenous peoples, minorities and women. It would give careful consideration to the projected human rights impact of specific legislative proposals including individualization of land ownership or the privatization of public utilities. Where trade-offs were proposed, it would ask whether they had a disproportionate impact on the poor, whether they could be reduced, and whether they were consistent with a State's binding international human rights obligations. In other words, a human rights-based PRSP would ask hard questions which appeared to have been neglected by the World Bank and IMF in the 1980s and 1990s. If those hard questions had been asked previously, some of the terrible and ultimately useless suffering brought upon the poor by earlier manifestations of structural adjustment would have been avoided. The World Bank had publicly urged the Special Rapporteurs and Independent Experts on food, education and housing and so

on to be intellectually rigorous. By the same token, the World Bank and IMF must also be rigorous in their analysis. A human rights-based PRSP could help to engender that rigour and to avoid some of the painful mistakes of the past.

46. The second proposal was that the OHCHR and the Committee should encourage HIPC States to seek technical advice and assistance regarding the integration of human rights into their PRSPs. The PRSP process must be "country-owned". Each country would decide for itself whether an offer of technical advice and assistance were to be accepted. If so, a small team of human rights experts and economists would visit national capitals and meet sectoral ministries and members of civil society to provide advice on how economic, social and cultural rights could be factored into a PRSP with a view to enhancing its effectiveness.

47. A third proposal was that the Committee should follow up on the letters received from the heads of the World Bank and the IMF. The OHCHR and the Committee should be prepared to visit Washington, D.C. to discuss the integration of human rights into PRSPs. The discussions could be both generic, in broad relation to human rights, and more specific, focusing on the PRSPs of a particular State. Based on many years of experience, it was the Committee's firm view, as confirmed in its Statement on Poverty, that a human rights-based anti-poverty strategy was more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty. The integration of human rights into PRSPs should not be seen by HIPC States as another form of conditionality. Rather, it was a way of ensuring the consistent and coherent application of the Covenant across the national and international policy-making processes, thereby helping States parties to deliver basic rights to their neediest citizens, in conformity with their international treaty obligations. In general terms, the issues under discussion bore upon the World Bank's Comprehensive Development Framework and also the United Nations Development Assistance/Common Country Assessment (UNDAF/CCA) process. The proposals made could complement and deepen existing administrative arrangements between the World Bank and its developmental partners.

48. Turning to the Committee's relations with the United Nations Educational, Scientific and Cultural Organization (UNESCO), he observed that one of UNESCO's major current preoccupations was the implementation of the Dakar Framework for Action which corresponded to one of the Committee's major concerns: articles 13 and 14 of the Covenant, on the right to education. The Committee had begun to ask States parties whether they were preparing the national Education for All (EFA) plans provided for in paragraph 16 of the Dakar Framework. In that connection, there was no reason why the Committee's concluding observations should not urge a State to seek technical assistance from UNESCO in relation to the preparation of its EFA plan. The Committee's concluding observations had already made recommendations to States about the substance of the right to education.

49. His suggestion was for UNESCO and the Committee to establish a small joint working group, within the Dakar Framework, to meet at UNESCO Headquarters in Paris once or twice a year. The group's mandate might include discussions on the States whose reports were due to be considered shortly by the Committee, which could thus have a better informed and more fruitful dialogue with States in their subsequent discussions in Geneva. Likewise, the joint working group could also follow-up on the Committee's concluding observations so as to encourage a State and the competent UNESCO officers to act upon them.

50. Mr. SEFIR-YOUNIS (World Bank) said that in answering the questions raised it was essential to refine the distinction made between a debate on the outcomes of development and progress made to date and the claims for a formal assignment of rights and responsibilities. Although the two aspects were clearly linked, it was extremely important that the reasons and justifications for any assignment of rights be clearly specified and analysed in each case. A corresponding issue was whether the law and jurisprudence should be the only or principal "entrance point" to the debate. At its own level, the World Bank had assumed that economic, social and cultural dimensions were important in many fundamental ways.

51. Secondly, experience in development planning processes and implementation often showed that the debate on human rights remained very separate from that on the economics and economic development aspects of the same processes. The mainstreaming of human rights into economic development strategies required the analysis and debate to go in both directions. In other words, it was necessary to have a full understanding of the implications that any economic policy or programme might have for the assignment of rights or the ways in which it would condition economic thinking and practice.

52. Thirdly, most development strategies were, by their very nature, a mirror image of the ideology of development prevailing at a given point in time. If the strategy was to be reconciled with the ideology, particularly in relation to issues of priority, divergence or trade-offs, a discussion of values and value systems could not be shirked. If countries adopted a human rights-based approach to development, human rights values should permeate each and every aspect of a development strategy so that related issues were not a residual of economic transactions. Similarly, the role of social and cultural factors should be taken into account along with issues and concerns in the areas of environment and development sustainability.

53. The Committee often advocated that human rights values must have precedence over economic values and decision-making rules. However, the major question posed by that assertion was one of relativity, particularly for countries that required better allocation of their scarce resources.

54. Fourthly, the debate on human rights tended to remain weaker when it focused on the assessment of progress made in policy design and implementation. Also, the contributions made were much easier to observe at sectoral level than, for example, at the level of the right to development. Notwithstanding, the traditional sectoral approach to development strategies was neither the best nor the most comprehensive when it came to addressing economic, social and cultural rights. In practice it had allowed education, health, food and housing agendas to advance. However, if more attention was focused at the sectoral level, that was not always synonymous with the attainment of higher levels or of objectives set in relation to human rights.

55. The first important question was whether economic, social and cultural rights were an essential component of development strategies. Many plans did include an overall strategy to implement all human rights, even where that was not explicitly stated. For example, infrastructure projects might have profound positive effects on the implementation of rights of women and children. The task became easier when the focus was on rights that matched corresponding development institutions which concentrated on particular areas such as

education, health, food and housing. Many aspects were, however, seldom taken into account. One of them was the fact that the fulfilment of rights might require action in all or most institutions in a given society. For example, high levels of human health might be attainable only through a comprehensive strategy at all levels of decision-making.

56. A key question to be addressed was therefore why human rights were not being mainstreamed into development. Or, more fundamentally, was such mainstreaming possible anywhere? He believed it was, but in fact many of the political, social, institutional and human conditions required for mainstreaming had not really been met. In many cases, development strategies were seen as instruments of economic, cultural and social policy, but the foundations of those policies had not been permeated by the debate on human rights.

57. The second question was whether globalization violated economic, social and cultural rights. The answer depended on the standpoint adopted. Before a consensus could be reached, it was essential to recognize the major advances that had been achieved as a result of the globalization process, for example in relation to new technologies, notably in informatics and transport. Some would argue, however, that despite all the food produced in the world, its distribution was not at all equitable and that nearly one billion people were suffering from malnutrition and hunger. Similarly, 35,000 children died every day of curable diseases, as a result of the lack of a truly competitive market. Globalization had certainly globalized many economies, but it had not globalized the same number of societies. In both developed and developing countries, social globalization was one of the constraints faced in the fulfilment of human rights at all levels. Several conditions needed to be met, one of which was the creation of a new "Global Social Contract".

58. Therefore, while it was difficult to deny the importance of trade among nations, it was equally difficult not to see the problems and risks that globalization entailed.

59. As far as the integration of poverty eradication strategies with economic, social and cultural rights was concerned, he was cautiously optimistic. Most development strategies and institutions were currently focusing on the complex and multidimensional process of poverty eradication, and the Committee should also focus more on the link between rights and poverty strategies. The emphasis on poverty had given rise to a number of critically important ideas and approaches towards the realization of human rights. The World Development Report for 2000 gave far greater prominence to empowerment, listening to poor people, participation, creation of opportunity, and protection of and assistance to minorities, all fundamental aspects of operationalizing human rights, than the corresponding Report had done 10 years earlier, and the new policy of the World Bank recognized the fulfilment of the rights of indigenous peoples as an objective. However, a consensus among international organizations on the need to tackle poverty required a common communication strategy to inform the public at large that a poverty eradication strategy was essential to the implementation of all human rights and that absolute poverty was probably one of the main underlying causes of human rights violations. It was important to link the debate on human rights to the international development goals (IDGs), which were, however, only instruments and not ends in themselves, and their attainment would not necessarily imply the fulfilment of human rights.

60. The indivisibility and hierarchy of human rights required a new development strategy focusing on people, social conditions, immediate action, and solidarity with the poor, the voiceless and the powerless, and the statement by Mr. Hunt was an important contribution towards defining its characteristics.

61. However, society seemed unable to maintain the holistic nature of human rights in the implementation process, and it was important to identify the point of breakdown. If new development strategies failed to prevent that breakdown they would simply result in more documentation and declarations of intent rather than in respect for human rights.

62. Summing up, he said that the debate should focus on economic and social institutions, which appeared to be better equipped to deal with human rights than economic and cultural institutions.

63. There could be no progress on human rights without a close focus on processes; major constraints associated with political power and consensus-building were often disregarded in the formulation and implementation of development strategies, but they were important to endeavours to render PRSPs country-based and country-owned. Equality, empowerment, governance, participation, styles of development and value systems were all crucial to the attainment of human rights. Given the scarcity of resources in some developing countries, economics undeniably mattered a great deal, and while some argued that the values and prescriptions derived from economics should not dictate final outcomes, scarce resources nevertheless had to be allocated efficiently and effectively. That did not, in itself, imply human rights violations but many rights could be implemented only if economic criteria were respected. Between economic efficiency and the violation of human rights there was a large space created by existing power structures, the initial assignment of property rights, productive assets, institutions and other considerations. The debate on human rights must take account of the process of wealth creation, otherwise additional gaps would be created at all levels of decision-making.

64. One of the keys to progress in that area lay in an explicit recognition of the role played by value systems and beliefs. The formulation of development strategies must be balanced, with the value system permeating each process or decision. The attainment of human rights should not become a residual of other value systems, like economics and finance.

65. Mr. FAURE (Development Assistance Committee, Organisation for Economic Cooperation and Development) observed that just as democracy and development were said to be mutually dependent, the same could apply to human rights and development strategies. Integration of human rights was becoming a condition for the very success of development and poverty reduction strategies. Strategies depended on the ability not only of the State but of citizens and economic actors to take free and independent decisions in a secure legal and judicial environment.

66. The much vaunted partnership between North and South must become more equal, assisted by development cooperation policy. Industrialized countries and international organizations could, through their development policies, encourage the implementation of

human rights, without which there could be no poverty reduction. That process was, however, in the early stages and the challenges were real. It assumed a change of behaviour on the part of the bilateral and multilateral donors to a new approach based on acceptance of their responsibility. Much remained to be done in that regard.

67. Similarly, the approach must be consistent, not only in the committee rooms of Washington or Geneva but in the implementation of strategies on the ground. He doubted whether the conditions for ensuring consistency yet existed. Some multilateral agencies, including UNESCO and WHO, and some bilateral donors were not yet sufficiently involved in the local process of strategy formulation and implementation.

68. Development policy through strategy support meant setting objectives towards which donor and recipient would progress together. That approach did not imply a priori conditionality, but joint action and joint progress. That model had advantages, but also disadvantages including the danger of relativization. Political conditionality merited consideration in that context.

69. Lastly, an approach based on operationalizing human rights, though undoubtedly desirable, would not lead far if limited to multilateral organizations and bilateral donors. The private sector, which would finance most of the development, and civil society should also be associated with the process. Further meetings should include representatives of both.

70. Mr. NOMAN (United Nations Development Programme) wished to consider the issues in the specific context of his own country, Pakistan. After 50 years of independence and US$ 50 billion of aid, the country had a 40 per cent literacy rate and had undergone rapid deterioration during the 1990s. While the responsibility clearly lay with the Government, the past record of international agencies in Pakistan had been fairly appalling. There had been a rapid increase in poverty between 1988 and 1989; development expenditure, which in 1992 had been higher than defence spending, had declined and was now considerably lower; debt servicing obligations had risen rapidly; and spending on education and health had declined from an already low level to the current 2.7 per cent of GNP. In that context, what did statements about the implementation of economic, social and cultural rights mean?

71. The more expensive the rights in terms of a country's resources, the more difficult it was to meet the obligation. Once the national process of priority setting and sequencing of rights had been established, a degree of budgetary accountability was necessary. The implementation of a rights-based approach was also relevant to horizontal inequality and its effects. Policy outcomes should be considered in terms of their impact on horizontal inequality in the areas of gender, ethnicity, and race. It was important not to regard the rights-based approach as inefficient. For example, the privatization of State-owned enterprises should not be assumed to be in contravention of the right to employment, as those enterprises might be a major drain on public resources, leading to high inflation. It was the Government's obligation to ensure that distortions which led to growth without employment were removed.

72. Mr. SWEPSTON (International Labour Organization) said the ILO warmly supported rights-based development initiatives by international organizations. ILO standards were closely

integrated into the Covenant. The ILO had been in discussion with the international financial institutions on how better to align their programmes. Human rights were a system-wide concern based not just on one individual instrument but on the complex of instruments that made up the collective consciousness and conscience of the system.

73. There was no contradiction between a common commitment to a core set of values and country-owned development strategies. Focusing assistance on the values and rights which had found common expression in such instrument as the Covenant and ILO standards did not amount to conditionality; international human rights instruments had been adopted as a development priority by the developing countries themselves through ratification. He agreed with Mr. Faure on the need to go beyond the international institutions. The ILO was in the process of setting up a project with the Asian Development Bank to explore the implications of the integration into their work of three basic human rights issues, child labour, gender, and occupational safety and health. Significant amounts of development assistance came not from international organizations but from transnational corporations and bilateral investment. He also agreed on the need to extend the debate well beyond the institutions represented in the room, which had a diminishing share in development assistance and in the financial input into development in the recipient countries.

74. Ms. FEENEY (Oxfam) said that since the World Conference on Human Rights in Vienna, she derived some satisfaction from the seriousness with which all rights were being treated by civil society, Governments and even institutions such as the World Bank and IMF. However, there was still a long way to go. She was heartened to hear the World Bank representative recognize its obligation to respect economic, social and cultural rights in its programmes and policies. Whether it was doing so successfully was a moot point.

75. The obligations of non-State actors such as the international financial institutions were clearly spelled out in the Covenant. There was a simple yardstick by which the international community should judge all types of international development assistance: whether it contributed to the effective realization of the rights recognized by the Covenant. Too often, that had not been the case. The most flagrant illustration, echoed in the statements by Mr. Ricupero and others, had been the failure of the industrial countries to act on their commitments to helping the least developed countries achieve more equitable forms of globalization. As had been pointed out, international development goals, while not necessarily incompatible with human rights standards, were certainly not sufficient in themselves to ensure realization of human rights. Nevertheless, they had to be taken seriously as they were benchmarks by which the international donor community measured progress towards the realization of human rights in the poorest countries.

76. In the early 1990s, the received wisdom promulgated by the World Bank and the IMF had been that globalization and the liberalization of trade and finance would spur growth in the poorest countries, diminishing income disparities within the global economy in the process. The least developed countries provided living testimony to the fallacy of that view. No progress would be made unless redistribution and equity were returned to the equation. The widening gap between the developed and developing countries was a clear indication of the inadequacies of the

system over the previous 20 years. If current trends continued only one country would reach the threshold for exiting from "least developed country" (LDC) status in the coming 50 years, and the LDCs would miss the 2015 human development target by a large margin.

77. Nowhere was the failure of international cooperation more apparent than in trade. Having pledged to improve market access, the industrial countries had operated a policy of highway robbery masquerading as preferential treatment. There, again, was a lack of consistency between the declarations of intent and action on the ground. The financial losses caused by market access restrictions had eroded the potential benefits; in effect, the rich countries were giving with one hand and taking with the other, providing a graphic illustration of the need for greater consistency between aid and trade policies. Access to the markets of the North remained restricted. Many LDCs had introduced radical trade liberalization programmes, often under the auspices of the World Bank and IMF, but liberalization under those programmes, unlike that negotiated through the World Trade Organization, had not been reciprocated, locking those countries into an unequal bargain. The removal of trade barriers had left food producers in particular highly vulnerable and facing competition from the industrialized countries, which spent around US$ 1 billion each day on production and export subsidies. In Haiti, the liberalization of rice markets and resulting flood of subsidized imports from the United States of America had contributed to the wholesale destruction of rural livelihoods and undermined national food security. Such advice and the resulting impacts could surely not be regarded as desirable under the terms of the Covenant.

78. In other countries, too, such as Zambia, the benefits of privatization of State-owned assets had been grossly overstated by the international community. Similarly, there had been a lack of concern about inequality, a lack of transparency, and neglect of the social impacts on the retrenched workforce. The development agreements drawn up with support from the international financial institutions and intermediaries had not been open to parliamentary or public scrutiny.

79. The performance of industrial countries' aid to the least developed countries was also totally inadequate. Development assistance flows at the end of the 1990s had been US$ 3.5 billion lower than at the start of the decade, a real cut of 30 per cent in constant dollar terms. Furthermore, the initiative in favour of the heavily indebted poor countries (HIPC) had failed to provide them with debt relief on anything like the scale required.

80. While there were indeed moves to make the development and planning process more transparent - particularly the CCA/UNDAF process, the Comprehensive Development Framework (CDF) of the World Bank and the new PRSPs - some concerns remained. The CDF tended to treat resource allocation as the problem rather than as a derivative of social action, and to base it heavily on a sectoral model which seemed to prejudge both the problems and the solutions. On PRSPs, which constituted an important shift by the World Bank and the IMF towards allowing greater opportunity for borrowing Governments to design their own development strategies focused on poverty reduction, the initial conclusions were not promising and many civil society organizations were dissatisfied with the extent of public involvement. Similarly, there was concern that the policy content did not constitute a significant change from

past adjustment programmes and focused too much on economic growth without addressing redistribution, and on privatization, liberalization and a reduced role for the State without the all-important ex ante impact assessment.

81. There were, however, signs of important changes afoot. Several civil society organizations were becoming more organized and sophisticated in their analysis of budgets and role in the economic reform process, but they still needed a great deal of support. A United Nations system working together as a whole to promote and protect fundamental human rights could certainly pay off.

The meeting rose at 1 p.m.

UNITED NATIONS

E

Economic and Social Council

Distr.
GENERAL

E/C.12/2001/SR.22
14 March 2001

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-fifth session

SUMMARY RECORD OF THE 22nd MEETING

Held at the Palais Wilson, Geneva,
on Monday, 7 May 2001, at 3 p.m.

Chairperson: Ms. BONOAN-DANDAN

CONTENTS

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued)

General discussion devoted to economic, social and cultural rights in the development-related activities of international institutions (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the meetings of the Committee at this session will be consolidated in a single corrigendum to be issued shortly after the end of the session.

GE.01-41927 (E) 060302 140302

The meeting was called to order at 3 p.m.

SUBSTANTIVE ISSUES ARISING IN THE IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 5) (continued)

General discussion devoted to economic, social and cultural rights in the development-related activities of international institutions (continued)

First session: international institutions and the International Covenant on Economic, Social and Cultural Rights (continued)

1. The CHAIRPERSON invited members of the Committee and representatives of organizations to make comments on the statements made at the previous meeting.

2. Mr. ALLMAND (Rights and Democracy) said that the international human rights Covenants, when taken in conjunction with the instruments establishing the International Monetary Fund, the World Bank and the World Trade Organization, led to the conclusion that human rights took precedence over agreements on trade, investment, etc. Indeed, Article 103 of the Charter of the United Nations stipulated that "in the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail". Similarly, it was clear from the 1969 Vienna Convention on the Law of Treaties that respect for human rights was a rule of jus cogens which per se took precedence over all else. The question then arose of how to ensure acceptance of that principle. The best solution would be for it to be politically recognized by States, but it was doubtful whether that would happen in the near future. He therefore suggested that, for the time being, an official interpretation of the principle of the primacy of human rights should be sought, for example, from the International Court of Justice. That would not solve all problems, but the opinion of an internationally recognized judicial body would undoubtedly give further impetus to the movement initiated by civil society to recognize the primacy of human rights over trade and investment agreements.

3. Mr. WINDFUHR (Food First Action and Information Network), referring to the role of intergovernmental organizations, said that the aid they contributed to poor States should be multifaceted and that they should encourage government institutions to take a human rights-oriented approach. In so doing, they should ensure that their own policies did not undermine the ability of States to implement the Covenant or the possibility of peoples to exercise to the full their economic, social and cultural rights. How often the Committee, in its continuing dialogue with States parties, had heard delegations say that the exercise of a particular right came into conflict with the conditions with which the Government must comply under the macroeconomic policies prescribed by intergovernmental organizations. There was a need to find a system to enable civil society and the intergovernmental organizations themselves to know whether the policies prescribed benefited or were detrimental to human rights. He agreed with the representative of the World Bank that generalizations must be avoided and that the impact of

a given policy on human rights could be measured on a case-by-case basis only. The World Bank's Inspection Panel, however, was not always efficient and it might perhaps be necessary to consider setting up an independent body accessible to civil society and empowered to examine the impact of aid programmes on respect for human rights.

4. Mr. SFEIR-YOUNIS (World Bank) noted that a number of human rights concepts were developing but feared that it was not always possible to know how to take them into account in drawing up programmes. For example, it was not clear how the right to development should be incorporated in the formulation of macroeconomic policies or how the real impact of those policies on respect for human rights should be analysed. As far as the Inspection Panel was concerned, he admitted that as a World Bank body it did not perhaps have all the necessary competences to carry out the monitoring the representative of Food First Action had referred to. It would perhaps be possible to resort to the mechanisms habitually employed in human rights, in particular special rapporteurs.

5. Mr. SADI, replying to the representative of the Work Bank on the difficulty of establishing a link between macroeconomic policies and human rights, proposed that programmes that had already been implemented should be used as criteria. If a policy prescribed by an international financial institution led to large-scale unemployment, housing problems or worsening poverty, those results would provide adequate criteria for concluding that the policy in question was detrimental to human rights.

6. Mr. SFEIR-YOUNIS (World Bank) stressed the need to be aware of the fact that no price policy and no budget or trade policy could be implemented without adverse effects on some strata of the population. What was important for the World Bank was that its effects should be positive for society as a whole.

Second session: possible advances in economic, social and cultural rights

7. The CHAIRPERSON announced that the introductory statements for the session would be made by Mr. Texier and a representative of the International Monetary Fund.

8. Mr. TEXIER said that, on the basis of a few simple observations, he would like to clarify the discussion on the prospects for better integrating economic, social and cultural rights into the cooperation programmes and financial policies of intergovernmental organizations. His first observation was that there was a high level of coincidence between States which had ratified the Covenant and States which were members of international financial institutions. As a result, the obligations accepted individually by States should also be incumbent on them collectively as members of international organizations. The Committee had recalled that principle in its General Comment No. 12 on the right to adequate food, No. 13 on the right to education and No. 14 on the right to health. Similarly, in a recent statement on poverty and the Covenant, the Committee asserted that "anti-poverty policies are more likely to be effective, sustainable, inclusive, equitable and meaningful to those living in poverty if they are based upon international human rights. For this to occur, human rights need to be taken into account in all relevant policy-making processes".

9. The second observation was drawn from the Committee's experience in considering reports submitted by States parties: the macroeconomic policies introduced by the financial institutions (privatization of whole sectors of the economy, cutting-back of social budgets, payment of external debt and reduction of inflation) not only did not always contribute to the realization of economic, social and cultural rights, but often had adverse effects on the rights of the poorest populations. For that reason such policies should be the result of broad-based consultation between the financial institutions and the States concerned, which should associate their own populations with them. At no time should States lose sight of the obligations they had accepted when they ratified the Covenant.

10. The third observation was that all bodies responsible for ensuring respect for human rights asserted the need for financial organizations to take economic, social and cultural rights into account in their policies. The Commission on Human Rights in its resolution 2001/27 on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights affirmed that "the exercise of the basic rights of the people of debtor countries to food, housing, clothing, employment, education, health services and a healthy environment cannot be subordinated to the implementation of structural adjustment polices, growth programmes and economic reforms arising from the debt". All the special rapporteurs on questions relating to economic, social and cultural rights had produced a similar analysis, expressed in different forms but with a single clear philosophy - that taking human rights into account must be the basis for all international cooperation programmes and all financial policies.

11. The fourth observation was that, in the face of the convergence of the views of the human rights institutions, the attitude of the development agencies had changed for the good while the financial institutions had also shown signs of a very encouraging change of direction. The United Nations Development Programme (UNDP) was emphasizing human rights in its development policies while the World Bank had set a target of eradicating poverty throughout the world. The International Monetary Fund (IMF) for its part had recently established the Poverty Reduction and Growth Facility (PRGF), intended to foster sustainable growth in developing countries.

12. In conclusion, he recalled that one of the goals of the discussion was to pursue a dialogue based on two approaches which were perhaps contradictory in appearance only - one being macroeconomic and based on aid to growth, while the other was based essentially on the distribution of created wealth and its consequences for all human rights. The Committee hoped that the dialogue would continue and acquire deeper dimensions, since it believed that the long-term effectiveness of aid programmes was closely bound up with the incorporation in them of economic, social and cultural rights.

13. Mr. GIANVITI (International Monetary Fund) said that the fundamental issues were whether the Fund was legally required to give effect to the provisions of the Covenant and whether the objectives stemming from its mandate were by and large compatible with the rights set out in the Covenant. He recalled that the specialized agencies had been invited to take part in the negotiations to draw up the Covenant and that the Fund had declined the invitation because it seemed that its Articles of Agreement did not permit activities of that type. The Fund was not a development agency required to finance health or education projects, but rather an institution with a dual mandate: supervising the international monetary system, and contributing monetary

aid to countries with balance-of-payments difficulties. In other words, the Fund's activities had nothing to do with the economic, social and cultural rights of individuals and its mandate was not to ensure that they were effectively exercised. Further, the Fund's articles stipulated clearly that its resources could be used only to help States to make good their payment deficits, thus promoting monetary stability.

14. That said, both the articles and the activities and policies of the Fund had evolved. Firstly, while members continued to have access, on an equal footing, to the Fund's resources to solve balance-of-payments problems, various facilities had been established for the express purpose of helping developing countries. Secondly, the Fund currently recognized the need to pay particular attention to the poorest countries, although still in the form of support for their balance of payments. Thirdly, the Fund's role had changed: from guardian of the stability of exchange rates it had become, in a manner of speaking, a supervisor of the monetary, economic and financial policies of member States.

15. Three objections could be raised to the applicability to the Fund of the International Covenant on Economic, Social and Cultural Rights: IMF was not a party to the Covenant and only parties to a treaty had obligations; the Covenant created obligations only for States and not for international organizations; in accordance with article 24 of the Covenant, nothing in the Covenant should be interpreted as impairing the constitutions of the specialized agencies which defined the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the Covenant.

16. There were those who maintained, however, that the Fund was bound by the Covenant, and that it had direct effects on IMF. There were two reasons for that belief: the Fund was a United Nations agency and the Covenant was part of the jus cogens applicable to all States and all agencies. The Fund was, in fact, a specialized agency within the meaning of the Charter of the United Nations and not an instrument in the service of the United Nations. It had signed a cooperation agreement with the latter which recognized it as an independent organization. Moreover, if the Fund was legally bound by the Covenant, article 24 of the Covenant would be meaningless. Lastly, States which had not acceded to the Covenant did not consider that it was part of jus cogens or that it was legally binding on them.

17. Others considered that if IMF was not bound by the Covenant, its members nevertheless were. They put forward two types of argument. Firstly, the members of the Fund, as decision makers, should ensure, through IMF, that they met the obligations which the Covenant imposed on them. Secondly, when the Fund dealt with a State party to the Covenant, it should not encourage that State to violate its obligations. As far as the first point was concerned, the obligations devolving on the members of the Fund as parties to the Covenant were bilateral only in scope. Even admitting that members had obligations, they had assigned resources to IMF for specific purposes. Under the Fund's Articles of Agreement, such resources must be used for those purposes only and no other. There was therefore very limited room for manoeuvre. Regarding the second point, namely, that IMF should not induce a State to fail to meet its obligations under the Covenant, it should be stressed that it was easy for some countries to hold

the international organizations responsible for their problems when such problems were in fact the result of their mismanagement of public affairs. It was not easy for the international organizations to choose which the policies to adopt. Some areas had necessarily to be sacrificed. When IMF provided a country with assistance, it did so not only in that country's interest but also in the interest of the entire international community, for example, to avoid an excessive depreciation which could have repercussions on other countries.

18. The Fund was in no sense bound by the Covenant, but it did take it into account in drawing up its programmes. Some of its legal bases coincided with the Covenant's objectives. In the sphere of supervision, for example, the second amendment to the Articles of Agreement stressed the need to promote economic growth insofar as it did not call into question the stability of exchange rates. However, under its articles, the Fund must not intervene in countries' social policies. As far as financial assistance was concerned, IMF furnished resources to its members to let them resolve their balance-of-payments problems without resorting to measures which undermined national or international prosperity. However, the Fund did look to the social impact of its financial aid policy. It also paid particular attention to the special needs of the poorest countries. In that regard it worked in close collaboration with the World Bank. In conclusion, he said that countries should not be satisfied with expressing their attachment to human rights and the Covenant. They should also have the political will to take the necessary steps to recognize and promote those rights.

19. Mr. TROJAN (European Commission) noted that there was a need to ensure the consistency of national and international policies, since in an increasingly interdependent world the activities of the main actors inevitably had economic, social, environmental and even cultural repercussions on other countries. In order to define more consistent policies internationally, increased international cooperation and coordination were necessary, along with a greater depth of dialogue with development NGOs and civil society, which were sources of information and valuable partners in dialogue.

20. It was difficult to assess accurately the impact of globalization and trade liberalization, in particular with regard to the full enjoyment of human rights, but it was clear that there were links between trade, development and human rights. Of the latter, economic, social and cultural rights had as much importance as civil and political rights.

21. In a world characterized by economic globalization, respect for human rights, particularly the right to development, was by force of circumstance a matter of international responsibility. The European Union, a unique model of regional integration, practised controlled liberalization so that economic globalization would not adversely affect its social model. Political will was required to that end, along with common objectives and consistent policies, strong solidarity and a solid system of governance, all elements which were largely lacking at the world level. The European Union attached great importance to human rights, as the recent adoption of the Charter of Fundamental Rights testified. Its development policy was based on the principle of sustainable, fair and participatory human and social development, and the promotion of human rights was an integral part of it.

22. The real question which arose at the international and national levels was how human rights were to be integrated into development cooperation policies. If progress was to be made in economic, social and cultural rights, a world system of governance must be established based on a spirit of initiative, consistency and solidarity.

23. It would be counterproductive to call into question regulations facilitating world market expansion. Better control of globalization was required through support for initiatives to combat poverty, realize social objectives and promote sustainable development. Remedying existing imbalances required more action, regulation and consultation at the world level, not less. The debate on the adverse effects of globalization had focused on WTO, which had been subjected to contradictory pressures from civil society. For some, the organization should intervene more in the areas of the environment, health and labour standards. For others, its interference in national legislation was the source of all the planet's evils. Naturally, neither view was correct. Globalization could not be controlled by WTO alone. Although it was predominantly a trade organization, its objectives were not exclusively economic. Its basic objectives included sustainable development and equitable growth. It was an organization based on consensus, whose members, three quarters of which were developing countries, were the decision-makers. Its effectiveness lay in the settlement of disputes.

24. The case law of the Dispute Settlement Body indicated that it did not permit commercial rights to predominate over essential environmental and health matters and did not depart from the Vienna Convention where the interpretation of treaties was concerned; that meant that WTO's rights and obligations would not impair the human rights conventions. The organization's rules, moreover, left countries sufficient leeway to avoid the adverse effects that trade could have on the realization of human rights. It was nonetheless the case that there were instances of potential conflict in the spheres of sustainable development and health, where certain questions required clarification (relationships with multilateral environmental agreements, the precautionary principle, the Agreement on Trade-Related Aspects of Intellectual Property Rights). Those questions had been included in the European Union's programme for a new round of negotiations.

25. While WTO could make a better contribution to the full enjoyment of human rights, in particular the right to development, it could not by itself eradicate poverty or create the conditions for sustainable development, nor could it deal with the broader questions of governance. The Dispute Settlement Body had been set up to find practical solutions to commercial conflicts and not to conflicts of a completely different type. It was important, rather, to restore the balance of the international system of governance by strengthening its social base and concentrating on development cooperation, which would involve increased coordination and cooperation among the Bretton Woods institutions, the United Nations and the World Trade Organization, but also among the specialized agencies and with donor States. The task would not be easy in view of the specialization of international governance, with each organization pursuing its own objective and with no mechanisms to ensure coherence or offer arbitration at the international level or within Governments. Organizations could not, moreover, replace Governments. The European Union had established the European Council with the role

of giving a direction to policies, ensuring their coherence and providing arbitration. That formula could be used as the basis for a globalization summit. Meanwhile, there was a need for concerted action - involving international organizations and Governments - whenever the objective to be achieved exceeded a single organization's capacity for action. In any event the realization of the right to development required a considerably more structured effort internationally.

26. Mr. MUNZU (United Nations Development Programme) said that, for the Programme, the concept of sustainable human development went beyond the narrow view of development as economic growth. People were at the centre of development as both actors and beneficiaries. Advances in economic, social and cultural rights were the main objectives of UNDP's programmes and projects. It had recently opted for a policy of integrating human rights into its sustainable human development programmes. It had had to face a major challenge: practical implementation of the rights-based approach to development. Commendable progress had been made in that area, but a great deal remained to be done.

27. In all regions of the world, UNDP country offices contributed to promoting economic, social and cultural rights by facilitating access to food, education, health care, housing, employment, social services and social security, and by improving conditions of work and participation in cultural life. They endeavoured in particular to ensure respect for the rights of vulnerable groups in the population by formulating and executing programmes aimed at promoting gender equality, eliminating racism and racial discrimination and protecting the rights of children, minorities, indigenous communities, people living with HIV/AIDS, refugees, internally displaced persons and the disabled.

28. In 1998 UNDP had stated its position regarding the promotion and protection of human rights in a document entitled "Integrating human rights with sustainable human development", in which it had recognized that human rights and sustainable human development were interdependent and mutually reinforcing. The Programme endeavoured to create the conditions for integration by strengthening the capacities of national democratic institutions and encouraging cooperation by NGOs. Although its interventions essentially took place at the country level, UNDP endeavoured not to lose sight of the global dimension of human rights by basing its activities on the decisions adopted at major United Nations conferences. It did not forget that those activities stemmed mainly from United Nations treaties, covenants, conventions and declarations. It also collaborated with all the United Nations agencies for the integration of human rights into their activities.

29. The Programme came up against two major problems, however. Firstly, no tool currently existed for a genuine analysis of programmes and projects from the human rights perspective, thus restricting the possibilities of action of the country offices in that regard. Secondly, UNDP suffered from inadequate funding for the implementation of its human rights policy. The international community as a whole needed to mobilize the resources needed for the promotion of human rights.

30. Ms. LALUMIÈRE (High Council for International Cooperation), summing up the thinking that had gone into improving respect for economic, social and cultural rights in the world, began by recalling that States had traditionally tended to entrust the management of human rights, and accordingly the management of economic, social and cultural rights, to special bodies that were so much outside the mainstream that they ended up as ghettoes. The United Nations High Commissioner for Human Rights had expressed her concern at the tendency to create ultra-specialized human rights institutions, and considered that such hyper-specialization could, in the long run, be a snare for the daily exercise of human rights. Human rights did indeed need specialists to advance human rights doctrine, but for there to be an effective impact everyone must take human rights to heart; they should be a part of each and every policy. It was an approach everyone should be following, including the economic and financial organizations such as the International Monetary Fund and the World Bank, notwithstanding the legal constraints relating to their status.

31. Secondly, if there was to be greater respect for economic, social and cultural rights, the list of rights must not be too long. Too exhaustive a list would be damaging to the effective enjoyment of rights and would be liable to result in difficult-to-control declarations with no legal force, violation of which would not be punished. Better protection of economic, social and cultural rights should under no circumstances be achieved at the expense of the balance between the list of recognized rights and the legal and political force which should attach to them to ensure that they were effective overall.

32. Thirdly, it was important to bear in mind that any discussion of the rights of the individual concerned extremely sensitive issues. One question worth asking was whether respect for economic, social and cultural rights was regarded as a genuine requirement, or whether those rights were merely "rights of the poor, Cinderella rights", or rights that were less well protected than civil and political rights. That question led to another, concerning the hierarchy of the various requirements: for example, was respect for the rights of the individual being made the absolute priority? Many would answer in the affirmative, but it was not self-evident.

33. Fourthly, the links between economic issues and economic, social and cultural rights should be examined. It might be asked, for example, whether an end should be made to structural adjustment policies because they violated the rights of one category of the population although serving the general interest. Questions such as whether respect for the rights of the individual was likely to hinder economic development showed that, even when the close positive correlations between respect for human rights and economic development were known, the doctrinal debate on that aspect of the question was far from over.

34. Every effort should be made to ensure that the same importance was given to economic, social and cultural rights as to other rights. She hoped that the draft additional protocol to the International Covenant on Economic, Social and Cultural Rights would be finalized as soon as possible, so that the nature of the rights set out in the Covenant and their legal force could be clarified and monitoring machinery and possible sanctions for the violation of those rights could be established.

35. Mr. LIM (World Trade Organization) recalled that the preamble to the Marrakesh Agreement establishing the World Trade Organization said that WTO's chief objective was to raise the living standards of all peoples, an objective also shared by the Covenant. He explained that WTO's prime aim was to ensure development, and that it was an important part of its activities. It was primarily an organization used by States to establish the international regulatory framework for free trade, to negotiate the rules of access to markets and to settle their trade differences.

36. Contrary to what some speakers seemed to think, the question was not whether WTO should set rules based on non-economic values or which met needs other than economic needs as opposed to economic rules, since the organization already had at its disposal an array of measures for legal protection incorporated in existing agreements. It would, however, perhaps be advisable to question the true effectiveness of those measures and to ascertain whether they had been adequately defined and whether they affected the general balance of rights and obligations established in the WTO agreements. Some of those questions, often raised in the context of trade negotiations, could unfortunately be resolved only through negotiation.

37. With regard to taking account of economic, social and cultural rights in trade negotiations under the auspices of WTO, it was not a question of trying to convince WTO but the States members of the organization. It was essential that those in favour of such an approach should prove to the Governments concerned that it could help them to promote their trade interests vis-à-vis other partners. Only the incorporation of those rights into the practice of States would allow for their effective enjoyment.

38. It should be recalled that if WTO was perceived as an extremely powerful organization, although it employed only 500 people, a third of whom were in the translation and documentation services while its budget was one of the smallest of the international agencies, it was because the States which had signed the WTO agreements asserted them forcefully. In fact, WTO was a weak organization which depended on powerful agreements. If economic, social and cultural rights were to guide Governments in their negotiations within international economic bodies, they must feel that those rights had specific applications from which they could benefit in order to achieve their objectives. That should be possible since 80 per cent of WTO's members were developing countries.

39. It should also be recalled that WTO, contrary to what might have been said, did not function outside the international legal framework and that the corpus of regulations it had helped to draw up was completely in accordance with the principles of international law. It was true that procedures for settling trade differences were sometimes so complex that confusion could arise in the minds of some as to what constituted a conflict or a dispute. From that point of view it was true that WTO needed to make genuine efforts for a better definition of concepts and the institutional framework on which they were based, as well as the agreements concluded under its auspices, but that should also apply to the human rights bodies. A better definition of the role and functions of each would enable areas of complementarity to be identified and in the long run make possible genuine progress on the integration of human rights into international commercial and financial policies.

40. Mr. SINGH (UNESCO) said that his organization had introduced a medium-term strategy for the period 2000-2007 with special stress on the promotion of human rights and cultural rights in particular, and recommended the implementation of a number of operational activities ranging from the organization of human rights seminars and training courses to the launching of national programmes of action.

41. UNESCO considered that the right to education, enshrined in article 13 of the Covenant, was both a fundamental right for the exercise of all human rights and a means of achieving all human rights; the Committee had endorsed that view in its General Comment No. 13 on the right to education.

42. One of the basic questions arising in that context was how to promote the right to education of the poorest individuals and encourage access to education in public expenditure programmes. It was of the highest importance to make it a universally binding right and to initiate a debate on the subject, with the accent on the obligations imposed on States by international law in that regard and on studying means of transforming those international legal obligations into nationally binding obligations. The essential role of education in the fight to eradicate poverty and illiteracy must also be reaffirmed.

43. Recalling that the Declaration adopted following the World Conference on Education for All (1990) asserted that every individual had the right to the satisfaction of his or her fundamental needs, he considered that it was a concept which should be clarified so as to enable a better assessment to be made of the progress since achieved on the question of the right to education. UNESCO was ready to help the Committee to draft further general comments on cultural rights, as it had done in the past, and to contribute to the implementation of the rights enshrined in the Covenant.

44. Mr. BARNEY PITYANA (South African Human Rights Commission) said that the human rights standards of the past 50 years had acquired a regulatory status which contributed to the principle of the international responsibility of States in that regard. It also meant that they could be appreciated from two different standpoints - as a system of moral values or as a system of legally binding international principles. If the two points of view were reconciled, objectives common to both could be attained, both within and outside the United Nations system, avoiding what the Director-General of ILO had referred to as the schizophrenia of the multilateral system.

45. It was also important to reconcile the objective of development with the human and economic values inherent in all policies of the last 50 years. Although theoretically there was agreement on what those values were, it was far from being the case in practical terms. The phrase "integration of human rights in the policies of the international organizations and in national development policies" needed to be clarified. No national policy could function on the basis of the criteria established by such organizations as UNDP or IMF and the means must be found of implementing the various policies and criteria adopted by those organizations, while bearing in mind principles fundamental to the exercise of democracy, such as respect for human dignity, equality and social justice.

46. Mr. CHERU (Independent expert on the effects of structural adjustment policies and foreign debt on the full enjoyment of all human rights) expressed surprise that the question was

still being raised of whether the International Covenant on Economic, Social and Cultural Rights was also binding on the international financial institutions, including IMF. In his opinion, the reason that it had been necessary to organize a day of general discussion on the place of those rights in development activities was that the development debate had undergone a radical change and could not be understood unless human rights and international cooperation were taken into account. The aim of such a meeting was to pool the views, experience and know-how of each of the parties present - including the international financial institutions, subject to the same ties as States - in order to forge a consensus on the need to integrate macroeconomic and social policies in the drafting of development programmes. The International Monetary Fund could play a primordial role in that process and he welcomed the desire expressed by the Fund in the course of the past two years to initiate a dialogue with the human rights organizations in civil society. It should furthermore not be forgotten that one of the Fund's objectives was to give a proper place to human dignity.

47. Mr. KOTHARI (Special Rapporteur on adequate housing) noted that the day of general discussion had brought out the need to reiterate the moral and ethical imperatives flowing from the Covenant and to set up programmes of education in human rights for the decision-makers of the World Bank and IMF, who were not sufficiently well informed. He also stressed the incompatibility of economic growth with human rights, recalling that an exclusively growth-oriented policy, as had been the case in the last 20 years, necessarily gave rise to inequalities. Encouraging out-and-out growth to the detriment of the poorest was not acceptable, as the Committee had emphasized in its statement on Poverty and the International Covenant on Economic, Social and Cultural Rights.

48. He endorsed Mr. Hunt's proposals to enter more deeply into debate with the World Bank and IMF and to encourage the inclusion of human rights in Poverty Reduction Strategy Papers (PRSPs). The question of international cooperation needed to be tackled collectively and the international financial institutions encouraged to abandon their exclusively macroeconomic policy if part of mankind was not to continue to suffer.

49. Mr. SADI, coming back to the applicability of the Covenant, recalled that it had been ratified by 145 countries and for that reason was part of international customary law applicable to all. The Covenant moreover derived from the Charter of the United Nations and the Universal Declaration of Human Rights, the applicability and the universal nature of which could not be questioned. As far as article 24 of the Covenant, to which the Fund had referred, was concerned, no provision of the Covenant adversely affected the IMF Articles of Agreement, since the questions the Covenant dealt with differed from those with which IMF was concerned. No conflict between the two texts could therefore arise, and there was no legal obstacle to IMF's being bound by the Covenant.

50. Mr. HUNT welcomed the participation of the representative of IMF in the day of general discussion. In view of the latter's comments on the obligations of States parties in international cooperation and the impossibility for the members of IMF to allocate resources for purposes other than those defined by the Fund, he wished to remind him of the Committee's position, that a State party to the Covenant could not elude the obligations imposed on it by the Covenant in negotiations with the International Monetary Fund.

51. Mr. SFEIR-YOUNIS (World Bank) explained that international institutions frequently drew up a framework for action in a country but were not the first to implement it. The World Bank was a case in point; since the only parties with which it could deal were Governments, it could not intervene after a conflict which left a country adrift. In the interest of the individuals and countries in question, however, it was important that the institutions which were best placed to bring them the services needed should be the first to intervene. He wished to stress that, where human rights were concerned, the World Bank had implemented a number of strategies - programmes for the poor, for women and for children - and that it was regrettable that no account had been taken of them in the discussion.

52. Regarding the question of the conflict between growth and equity, he considered that, in view of the growth in the world's population, equity and economic growth could not be dissociated over the long term. He asked whether it was really necessary to make a choice between economic and human values. For some groups in society, economic values were also human values. It might indeed be wondered whether those values were not closely linked and whether, in the long term, production, distribution and consumption could not engender more economic, social and cultural rights.

53. Lastly, he said that he was perfectly prepared to learn more about human rights. It would also be desirable for everyone to be more familiar with the principles the World Bank defended as well as with economic principles.

54. Mr. GIANVITI (International Monetary Fund) said that IMF did not dispute the obligations devolving on it under articles 2 and 24 of the Covenant, particularly with reference to international cooperation. He wished, nevertheless, to point out that the representatives of States members of IMF were accountable to their respective legislative bodies. They could not use resources allocated to a given project for another project without the agreement of those bodies. Their room for manoeuvre was therefore extremely limited and they were required to comply with the obligations they had contracted nationally.

Third session: summaries and prospects

55. The CHAIRPERSON invited Mr. Rattray, and Mr. Massiah of the High Council for International Cooperation, to sum up the main topics addressed during the day of general discussion.

56. Mr. RATTRAY noted, as the Deputy High Commissioner for Human Rights had done, that international institutions could genuinely change the course of events and improve the lot of the most deprived. It seemed to emerge from the day of general discussion that international organizations and States were aware of the need to establish social programmes based on respect for economic, social and cultural rights, and thus achieve the full and complete realization of those rights. The international community must therefore take up an immense challenge: that of designing a mechanism capable of incorporating human rights in economic development. It also must take steps to ensure that the various human rights covenants and international instruments were also binding on the international organizations. It was in that context that a worldwide

social contract could be envisaged between the international institutions so that they could integrate and coordinate their activities in economic matters without neglecting the importance of human rights.

57. It seemed, moreover, that a consensus had emerged on the question of poverty, and that the parties had become aware of the importance of strategies to eradicate poverty in the effective enjoyment of all human rights. The accent had therefore been placed on the need for an integrated and coordinated approach by Governments, civil society and the international organizations to combat the international scourge of poverty.

58. Mr. MASSIAH (High Council for International Cooperation) began by referring to the importance of discussion in greater depth of the question of respect for economic, social and cultural rights in development policies and reviewed the suggestions regarding greater respect for those rights.

59. Several areas of reflection could be identified to broaden the debate. It might be interesting to consider and take account of the multiplicity of conceptions of development, situated between macroeconomic policies and social policies. It would also be advisable not to neglect the importance of public debate and the mobilization of civil society, since that produced progress, as could be seen from the victory over the pharmaceuticals industry in South Africa. He went on to stress the importance of the universality and enforceability of human rights. The question of appeals bodies was also fundamental, as could be seen from the discussion to which the WTO Dispute Settlement Body had given rise; WTO was the only body which enabled the various components of civil society to take part in the debate on the conception of development. Lastly, the question of co-responsibility of rights was also fundamental.

60. Among the suggestions regarding greater respect for rights, he mentioned encouraging States to incorporate economic, social and cultural rights in strategies to reduce poverty. As far as the specialized agencies were concerned, the discussion had turned on the question of whether they could be made subject to obligations contracted by their member States and the role of civil society in reminding States of their responsibilities. Several suggestions had been put forward in that regard, including the idea of a social contract advanced by the Secretary-General of the United Nations, or that of other partnerships with the Commission, such as the appointment of an expert for the follow-up of each of the rights. The aim was in any case to ensure that the international organizations followed the development of society. As for the economic instruments available to States, they could be summed up for the most part by the Poverty Reduction Strategy Papers (PRSPs) in which a "human rights" component should be incorporated. Making civil society aware of questions of economic, social and cultural rights could lead to the creation of a common public opinion, worldwide, which would keep abreast of those rights and act as a universal conscience. It would also be important to encourage the States concerned to make efforts to ensure that the draft optional protocol to the International Covenant on Economic, Social and Cultural Rights was finalized and adopted as rapidly as possible.

61. In conclusion, he stressed his organization's desire to work in consultation with the Committee and said that he would initiate reflection on global public property at a seminar to be held in September 2001 on public development assistance and the financing of development.

62. The CHAIRPERSON thanked all participants in the day of general discussion and, in particular, all those who, through their written and oral statements, had made it possible to advance thinking on economic, social and cultural rights in the development activities of the international institutions.

The meeting rose at 6.05 p.m.